

Policies & Procedures

City of Long Beach Citizen Police Complaint Commission

Amendments to the Policy and Procedures

Adopted June 10, 1999

I. Purpose:

To establish guidelines for the receipt and processing of allegations of police employee misconduct as set forth in the City Charter, Sections 1150 and 1155.

II. Scope:

These guidelines are applicable in addressing allegations of misconduct by employees of the Long Beach Police Department. Complaints must have been filed on or after April 11, 1990.

III. Amendment:

This Policy and Procedures may be amended by a majority vote of the Commissioners in attendance at a regularly scheduled Commission meeting where the item appears on the published agenda for discussion and/or action.

IV. Policy Statement:

The Citizen Police Complaint Commission shall receive, administer and investigate, through an Independent Investigator, allegations of misconduct, by Police Department employees, with emphasis on excessive force, false arrest, and complaints with racial or sexual overtones. When necessary, the Commission will conduct hearings, and subpoena witnesses and records to facilitate the fact-finding process. Commission shall make recommendations to the City Manager and develop appropriate procedures to implement this policy. The Community, police employees, and staff are urged to give their support, to the extent permissible by law, to insure the effective implementation of this Policy and these Procedures.

V. Definitions:

The following definitions shall apply to this policy:

A. Commission:

The Citizen Police Complaint Commission (CPCC).

B. Complaint:

Allegation(s) of misconduct against an employee of the Long Beach Police Department.

C. Complainant:

The person filing the complaint.

D. Complaints with Racial Overtones:

Any allegation that is based upon prejudice or stereotypes against any racial, ethnic or minorities group.

E. Complaints with Sexual Overtones:

Any allegation that is based upon prejudice or stereotypes against a person(s) based upon his/her gender and/or sexual orientation.

F. Employee of the Long Beach Police Department:

Any employee in the Long Beach Police Department who is a sworn peace officer or an employee involved in the arrest, detention, search, transportation or incarceration of any person.

G. Executive Director:

The individual appointed by the City manager to direct the support staff and serve as liaison for the Commission and other agencies.

H. Excessive Force

Unreasonable or unnecessary force used by an employee of the Long Beach Police Department against a person or persons.

I. False Arrest:

Arrest made without probable cause that a crime has been committed and that the person in question has committed that crime.

J. Independent Investigator:

Staff investigator(s) employed by the Office of the City Manager and assigned to the CPCC to investigate allegations of police employee misconduct.

K. Misconduct:

An allegation against an employee of the Long Beach Police Department, which if true, may constitute a violation of a law, rule or regulation.

L. Probable Cause:

A condition where facts and circumstances known to the officer warrant a reasonable person to believe that the arrested person has committed a crime.

M. Respondent:

An employee of the Long Beach Police Department against whom a complaint is filed.

N. Witness:

Any person who has information relevant to the complaint.

VI. Commission Organization:**A. Commission:**

The Commission is a charter-mandated body of eleven citizens, which receives, reviews, and investigates allegations of misconduct filed against employees of the Long Beach Police Department.

B. Resignation – Replacement

1. In the event of the resignation or removal of a Commission member(s) during the year, the replacement Commissioner shall serve the remaining term of said Commissioner.

2. In the event of the resignation or removal of the Chair during the year, the Vice-Chair shall become the Chair and a new election shall be held for Vice-Chair.

VII. Receiving and Processing Complaints:

A. Where to File:

Complaints of police employee misconduct may be filed with the CPCC Office or any appropriate agency.

B. How to File:

All complaints of police employee misconduct filed with the CPCC may be made telephonically, in writing, or in person. The CPCC Investigator will complete a complaint control form in order to initiate an investigation.

C. Time Element:

All complaints shall be filed within one year of the date of the alleged police employee misconduct.

D. Receiving and Forwarding:

Complaints of misconduct, received by the CPCC from a Complainant or from the Long Beach Police Department or from any bona fide agency, and which have the required information for processing, shall be forwarded by the Executive Director, to the Commission for review and disposition as soon as is practical.

Those complaints received, which are to be submitted to other police agencies, shall be forwarded to those agencies as soon as possible after their receipt.

E. Complaint File:

The Commission shall maintain a confidential central register of all complaints filed with the CPCC.

VIII. Investigation:

A. Initial Interview:

The Independent investigator may at investigator's discretion interview the Complainant, Respondent(s), and Witness(es), and should collect all relevant information, including all documentation available relative to the investigation.

B. Conduct of Investigations:

The investigation shall be conducted in a fair, ethical and objective manner. The investigator is a finder of fact, and personal opinions shall not be contained in the investigator's report.

C. Statements of Witnesses:

The Investigator may take a statement from the Complainant, the accused, witnesses, or any other person. The statement should be summarized by the

Investigator and, whenever possible, agreed to by the person being interviewed. This may be done at the discretion of the investigator. All files, documents, and related materials shall be kept and preserved for five years after the completion of the case by the CPCC, and the recommendation has been reviewed by the City Manager.

D. Preservation of Records/Evidence:

In the event the investigation is suspended, all evidence relevant to the complaint, shall be preserved and maintained while such investigation is suspended.

E. Investigation Timetable and Report:

To the greatest extent possible, the investigative report should be completed within 45 calendar days after the filing of the complaint.

The investigative report should include the initial complaint and police report, if applicable, and the Investigator's summaries of the complaint, statements of witness(es), and evidence. The investigator shall have available all materials relevant to the case for review by the Commission.

F. Commission Review, Findings & Recommendations:

The complaint with the stated allegations of police misconduct and the investigative data shall be submitted to the Commission for its review. The Commission, in Closed Session, deliberates and determines an appropriate finding for each allegation. Its findings are forwarded to the City Manager for final disposition. The Commission may direct the staff to reopen the investigation for additional information or evidence. The Investigator shall be present to respond to questions from members of the Commission.

The Commission findings shall be referred to the City Manager for final disposition. The Complainant and Respondent shall be notified of the final disposition. The Commission, by majority vote of those present, may elect to hold a hearing. This hearing will be conducted by the full Commission. The Commission may request or subpoena the complaining parties, witnesses, and involved Police Department employees to appear before it to answer questions or provide information.

IX. Hearings:

A. Conducting the Hearing:

The hearing shall be open to the extent permissible by law. The Commission shall follow an informal hearing procedure in conducting its investigation of individual complaints. Citizen or Police Department employee witnesses shall be questioned by the Commission or staff only. There shall be no cross-examination by Police Department employees, citizen witnesses, the Complainant, or their respective counsel. All records relating to the investigation pertinent to the complaint shall be made available to the Commission to the extent permissible by applicable federal, state and local law and applicable contractual agreements.

B. Subpoenas:

Subpoenas shall be authorized by a majority vote of the full Commission present and shall be issued by the Executive Director and served by the Independent Investigator

or their designee.

C. Recommendations / Findings:

The Commission shall make its findings, which shall include, but not be limited to, the following:

1. Unfounded:

When the allegation clearly has no basis or foundation in fact and there is no information or evidence that supports the allegation, and/or the Complainant has been found to be untruthful based on factual information.

2. Exonerated:

When the act complained of did occur, but in the judgement of the Commissioners, the actions taken were justified, lawful, and proper.

3. Sustained:

When the act or failure to act is established and is rendered misconduct, and that act or failure to act is supported by evidence, information or unbiased independent witnesses.

4. Inconclusive:

When the allegations cannot be verified by evidence, information or independent witnesses and the officers deny the allegation(s), and there are no independent or unbiased witnesses to support the Complainant's allegation(s) .

5. Receive & File:

When information is received which does not, on its face, establish misconduct or failure to act has occurred, that information is received and filed for possible reopening of the case if further information or evidence is submitted. If additional information is received within a year, an investigation may be opened.

X. Distribution of Recommendations/Findings:

The Commission shall send its findings to the City Manager.

XI. Confidentiality:

A. Commissioner Limitation:

All matters shall be kept confidential as required by Law.

B. Penalty for Violation:

Failure to comply with this regulation shall be grounds for removing a Commissioner from the Commission.

XII. Final Authority:

Only the City Manager can make public the disposition of a complaint investigated by the CPCC.

Note: If in the course of Commission deliberations, the Commission finds that consideration should be addressed to policy, training, supervision or

other issues, the Commission may refer such suggestions to the City Manager.

Chronology of Amendments and Adoptions:

January 2, 1991 Original Adoption

July 3, 1991 Adoption Amended

March 4, 1992 Adoption Amended

June 10, 1999 Amendment Adopted

Respectfully submitted:

/s/

Alan Tolkoff

Chair

Citizen Police Complaint Commission